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July 9, 2018

Robert M. Gibbens, D.V.M.
Director, Animal Welfare Operations
USDA-APHIS-Animal Care

Via email: robert.m.gibbens@usda.gov

Re: Request for Nonrenewal and/or Termination of Steven Higgs's Animal Welfare Act License

Dear Dr. Gibbens,

On behalf of PETA and its more than 6.5 million members and supporters, I am writing to request that the U.S. Department of Agriculture ("USDA") deny the renewal of and/or terminate the Animal Welfare Act ("AWA") exhibitor license issued to Steven Higgs ("Higgs"), doing business as "A Walk on the Wild Side" ("AWWS") (license #: 92-C-0159).

As detailed in the attached appendix and supported by the accompanying exhibits, the USDA should not renew Higgs's license, which is set to expire July 14, 2018, because Higgs has violated, and continues to violate, local laws pertaining to housing, feeding, and keeping exotic animals; because he is not fit to be licensed; and because renewal of his license would be contrary to the purposes of the AWA. *See* 9 C.F.R. § 2.11(a)(5)-(6) (prohibiting the issuance of AWA licenses to an applicant who "[i]s or would be operating in violation or circumvention of any Federal, State, or local laws" or who "has been found to have violated any Federal, State, or local laws or regulations pertaining to the transportation, ownership, neglect, or welfare of animals, or is otherwise unfit to be licensed and the Administrator determines that the issuance of a license would be contrary to the purposes of the Act"); *see also id.* § 2.12 (authorizing license termination on these bases). Higgs was recently fined for operating AWWS in violation of local ordinances and has been repeatedly cited for similar violations. He also has a long history of AWA violations, and was denied an Endangered Species Act ("ESA") permit by the U.S. Fish & Wildlife Service ("FWS") because of his lack of species expertise and inadequate facilities.

Very truly yours,



Delcianna Winders, Esq.
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APPENDIX

I. BACKGROUND

Steven Higgs has violated local laws pertaining to land use, including using the Exclusive Farm Use (“EFU”) district for the unauthorized activities of housing, feeding, and keeping a variety of exotic animals and failing to obtain the required valid permit for structural development.¹ Moreover, since at least 2011, AWWS has been cited by the USDA for a host of AWA violations, including for repeatedly failing to properly handle wild cat cubs, failing to provide shade from direct sunlight, failing to have an effective barrier fence, repeatedly failing to have sufficient perimeter fencing, failing to keep enclosures in good repair, repeatedly failing to have required paperwork, and repeatedly failing to have an effective pest-control program.²

Higgs operates AWWS in blatant violation of governing legal standards—posing a serious threat to public health and safety, and reflecting a complete disregard for the purposes of the AWA. Higgs is also patently unqualified to operate these facilities—and therefore unfit to be licensed—as evidenced by his engagement in practices that are deemed unacceptable by legitimate veterinary, wildlife, and conservation experts, and as underscored by the FWS’s denial of AWWS’s Captive-Bred Wildlife (“CBW”) registration application for tigers, lions, lynx, and other wild animals in September 2016 under the ESA.³ FWS denied the application because AWWS “provided no evidence that [it] possess[es] sufficient expertise to breed the requested specimens, nor did [it] provide information to suggest [it] ha[s] the necessary expertise with similar species.”⁴ FWS also specifically noted that AWWS “lack[s] sufficient facilities to maintain these species,”⁵ and that AWWS had provided no evidence that it sought a CBW permit for “the purpose for enhancement of propagation or survival of the species.”⁶

As demonstrated by the evidence below, renewal of Higgs’s license would be arbitrary, capricious, an abuse of discretion, and contrary to the purposes of the AWA.

II. HIGGS’S VIOLATIONS OF LOCAL LAWS PERTAINING TO ANIMALS RENDERS HIM UNFIT TO BE LICENSED

Higgs’s history of violating local laws and his recent violations pertaining to land use, including using the EFU district for the unauthorized activities of housing, feeding, and keeping a variety of exotic animals and failing to obtain the required valid permit for structural development, render him unfit for an AWA license.⁷ Specifically, AWA regulations provide that:

¹ Ex. 1, *Washington County v. A Walk on the Wild Side*, Case No. UV 16-0014 (Findings and Final Order, Notices of Civil Violation Nos. 00129, 00130, 00134, 00135, 00137, 00138, 00139, 00140, 00141, 00142), June 5, 2018.

² Ex. 2, Compilation of USDA Inspection Reports of Steven Higgs.

³ See Ex. 3, U.S. Fish and Wildlife Service, *Captive-Bred Wildlife Registration (CBW) Application* (Submitted Mar. 5, 2016, Received Apr. 12, 2016), at 2; Ex. 4, Letter from Timothy J. Van Norman, Chief, Branch of Permits, Division of Management Authority, U.S. Fish and Wildlife Service to Steven P. Higgs (Sep. 15, 2016).

⁴ Ex. 4, at 2.

⁵ *Id.*

⁶ *Id.*

⁷ Ex. 1.

A license will not be issued to any applicant who: . . . [i]s or would be operating in violation or circumvention of any Federal, State, or local laws . . . [or who] has been found to have violated any Federal, State, or local laws or regulations pertaining to the transportation, ownership, neglect, or welfare of animals.⁸

Before relocating to Washington County, AWWWS was based in Clackamas County, and the County cited AWWWS for numerous code violations.⁹ In 2014, following a property inspection, the County found multiple code violations including building protective fencing without a permit, installing electrical lamps in a barn without a permit, leaving exposed wires, and illegally occupying unlicensed RVs.¹⁰ For over a year, the County notified Higgs of his zoning violations through letters, and eventually AWWWS closed its roadside zoo and only traveled to various county fairs.¹¹

Following these violations in Clackamas County, Higgs decided to relocate to Hillsboro, in Washington County, and in March 2015, a full year before moving, Washington County officials informed Higgs that the land he planned to occupy was not zoned for exotic animals—it was zoned exclusively as farmland.¹² The County gave AWWWS options for where it could relocate, noting the exotic animal prohibition in the EFU district, but Higgs ignored the numerous warnings and moved AWWWS to the EFU district in Washington County.¹³

Since its initial contact in March 2015, the County, through its Department of Land Use & Transportation, has repeatedly notified Higgs that he cannot have exotic animals in the EFU district.¹⁴ Under the Washington County Code, the “intent of the Exclusive Farm Use District is to preserve and maintain commercial agricultural land within the county.”¹⁵ The Code uses terms as defined by state law, and prohibits on EFU land activities that are not listed as being allowed or listed as “farm use.”¹⁶ AWWWS, on April 18, 2017, and July 7, 2017, was housing, feeding, and keeping exotic animals.¹⁷ Because these activities pertaining to exotic animals fall outside Oregon’s definition of “farm use”¹⁸

⁸ 9 C.F.R. § 2.11(a)(5), (6); *see also id.* § 2.12 (authorizing license termination on these bases).

⁹ Ex. 5, Katie Shepherd, *A Defiant Couple Is Caging Big Cats in the Portland Suburbs. Should Anybody Stop Them?*, WILLAMETTE WEEK (Jul. 26, 2017) <http://www.wweek.com/news/business/2017/07/26/a-defiant-couple-is-caging-big-cats-in-the-portland-suburbs-should-anybody-stop-them/> (last visited July 6, 2018).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Ex. 1 § IV.3 (“In approximately March 2016, Defendant A Walk on the Wild Side began moving its operation to a 92.6-acre property located at 29800, 29875, 29960, 30000, and 300400 [sic] NW Victory Lane, Hillsboro, Oregon. . . . The site is zoned Exclusive Farm Use (‘EFU’).”).

¹⁴ Ex. 6, Wash. Cty. Ore. Dep’t of Land Use and Transp. Planning and Dev. Services Div., *Statement on A Walk on the Wild Side*, (Jul. 27, 2017) <https://www.co.washington.or.us/lut/news/wws.cfm> (last visited July 6, 2018); Ex. 1 at § IV.7 (“The County sent letters to Defendants on April 27, 2016, May 25, 2016, February 7, 2017, and July 6, 2017, advising them that the operation of an exotic animal rescue is a prohibited use of the site, that development permits were required for construction and alteration of buildings and structures on the site, and requesting contact regarding these issues.”).

¹⁵ Wash. Cty. Comm. Dev. Code § 340-1.

¹⁶ *Id.* § 340-3–340-5.

¹⁷ Ex. 1 § VI.11.

¹⁸ ORE. REV. STAT. ANN. § 215.203(2)(a) (“‘farm use’ means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock . . . or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof”).

and “livestock” does not include exotic animals,¹⁹ Higgs violated the Code by using the site for the prohibited activities of housing, feeding, and keeping exotic animals in the EFU district.²⁰

The Code provides that, except for explicit exceptions, “no person shall engage in or cause a development to occur . . . without first obtaining a development permit through the procedures set forth in this Code.”²¹ AWWWS does not fall under any explicit exception.²² The Code further provides that “[n]o person shall engage in or cause to occur any development; erect, construct, reconstruct, alter, maintain, use or transfer any building or structure . . . in violation of the Comprehensive Framework Plan”²³ Higgs violated the Code by engaging in unpermitted structural development on EFU land by constructing exotic animal enclosure foundations and converting horse enclosures into exotic animal enclosures, which were present on April 18, 2017, and July 7, 2017.²⁴

The County repeatedly notified Higgs of his violations, and when he did not take corrective measures, the County issued two Notices of Civil Violation (“NCVs”) in August 2017, and two NCVs in March 2018.²⁵ On June 5, 2018, following a County hearing, AWWWS was found in violation of Washington County Code Sections 340-1, 340-7.1, 201-1, and 215-1, and received the maximum civil penalty, \$10,000.²⁶

The USDA should decline to renew, and/or terminate, Higgs’s license due to his complete disregard of local laws pertaining to animals, as evidenced by his history of continuous violations. Higgs is an applicant who “[is] or would be operating in violation or circumvention of any Federal, State, or local laws” and who “has been found to have violated any Federal, State, or local laws or regulations pertaining to the transportation, ownership, neglect, or welfare of animals.”²⁷

III. FURTHER EVIDENCE OF HIGGS’S UNFITNESS TO BE LICENSED

The AWA also provides for denial of a license if an applicant “is otherwise unfit to be licensed and the Administrator determines that the issuance of a license would be contrary to the purposes of the Act.”²⁸ The AWA’s primary stated purposes are, in relevant part, “to insure that animals intended for use . . . for exhibition purposes . . . are provided humane care and treatment” and “to assure the humane treatment of animals during transportation in commerce.”²⁹

As exemplified by the following USDA and FWS actions since 2011, Higgs has repeatedly failed to meet minimum federal standards for animal care and is unfit to be licensed:

¹⁹ *Id.* § 607.005(4) (“‘Livestock’ means animals of the bovine species, horses, mules, asses, sheep, goats and swine.”).

²⁰ Wash. Cty. Comm. Dev. Code § 340-7.1.

²¹ *Id.* § 201-1.

²² *See id.* §§ 201-2, 702.

²³ *Id.* § 215-1.

²⁴ Ex. 1 § VI.11.

²⁵ *Id.* § I.3.

²⁶ *Id.* § II.3 (\$5000 of the penalty was suspended and could be dismissed if, within sixty days, Higgs removes all exotic animals, demonstrates his compliance with the State Fish and Wildlife Commission, and removes unpermitted structures or modifies them for permitted farm use).

²⁷ 9 C.F.R. § 2.11(a)(5), (6); *see also id.* § 2.12.

²⁸ *Id.* § 2.11(a)(5), (6); *see also id.* § 2.12.

²⁹ 7 U.S.C. § 2131.

- July 25, 2017: Higgs was cited by the USDA for transporting a two-week-old tiger cub by car to Oregon from Oklahoma, following a previous citation for a similar AWA violation in 2016.³⁰ The USDA also cited him for failing to have a Program of Veterinary Care and the tiger cub’s acquisition record available for review.³¹
- July 19, 2017, and June 1, 2017: The USDA cited Higgs for not having an available adult to accompany officials during the inspection process.³²
- September 15, 2016: The FWS denied Higgs’s application for a CBW permit for ring-tailed lemur, leopard, lion, tiger, and lynx because Higgs failed to demonstrate he had proper expertise with the species, sufficient facilities to maintain them, and participation in an organized breeding program, meaning he did not qualify for the permit.³³
- May 23, 2016: Higgs was cited by the USDA for transporting neonatal wild cats, which subjected the animals to discomfort and danger.³⁴ The USDA determined that travel for neonatal wild cats is especially risky because they cannot thermoregulate and their immune systems are not fully developed, making them susceptible to illness.³⁵
- December 15, 2015: The USDA cited Higgs for failing to have proper perimeter fencing around enclosures, which threatened the public health and safety.³⁶
- August 17, 2015: The USDA cited Higgs for lacking an efficient pest control program and for failing to have records available for review.³⁷
- May 21, 2015: The USDA cited Higgs for failing to have records available for review.³⁸
- October 15, 2014: The USDA cited Higgs for failing to have complete records available for review, for failing to clean the bird, primate, and exotic “pocket pet” room adequately, and for failing to adequately remedy an extreme weather situation, which left a pig, tigers, and a fox with excess water in their enclosures with limited dry resting areas.³⁹
- July 8, 2013: The USDA cited Higgs for failing to have records available for review, and for failing to keep enclosures in good repair. There was apparent rust and destroyed plywood exposing sheet metal inside the enclosures.⁴⁰
- October 23, 2012: The USDA cited Higgs for handling animals improperly, after a member of the public touched a juvenile tiger’s face through its transport cage.⁴¹
- June 26, 2012: The USDA cited Higgs for having a fence around a lion enclosure that did not meet the minimum fencing requirements and for failing to have an adequate pest control program—the food prep area had flies “in the air and on surfaces.”⁴²
- July 6, 2011: The USDA cited Higgs for failing to provide the animals shelter from sunlight and for failing to have an effective pest control program in place.⁴³

³⁰ Ex. 2 at 1–2.

³¹ *Id.*

³² *Id.* at 3–4.

³³ *See* Ex. 3; *see* Ex. 4.

³⁴ Ex. 2 at 5.

³⁵ *Id.*

³⁶ *Id.* at 7.

³⁷ *Id.* at 8.

³⁸ *Id.* at 9.

³⁹ *Id.* at 10.

⁴⁰ *Id.* at 11.

⁴¹ *Id.* at 12.

⁴² *Id.* at 13.

⁴³ *Id.* at 14.

Higgs's routine noncompliance with the AWA—and particularly his repeat violations—for at least seven years, his disregard for applicable local and federal laws, and the denial of his CBW application demonstrate his complete disregard for the AWA and his unfitness to be licensed. Indeed, renewal of Higgs's license would be arbitrary, capricious, an abuse of discretion, and contrary to the purposes of the AWA.